

2011 DRAFTING REQUEST**Assembly Substitute Amendment (ASA-AB62)**Received: **05/04/2011**Received By: **tkuczens**Wanted: **As time permits**

Companion to LRB:

For: **Steve Kestell (608) 266-8530**By/Representing: **Laura Rose**

May Contact:

Drafter: **tkuczens**Subject: **Education - school boards**

Addl. Drafters:

Extra Copies: **pg**Submit via email: **YES**Requester's email: **Rep.Kestell@legis.wisconsin.gov**Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**
laura.rose@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Administration of medication to pupils

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens 05/06/2011	jdye 05/06/2011		_____			
/P1	tkuczens 05/20/2011	wjackson 05/20/2011	jfrantze 05/06/2011	_____	sbasford 05/06/2011		
/1			phenry 05/20/2011	_____	lparisi 05/20/2011	lparisi 05/20/2011	

FE Sent For:

<END>

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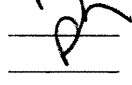
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WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR LUTHER OLSEN AND REPRESENTATIVE STEVE KESTELL

FROM: Laura Rose, Deputy Director

RE: Proposed Substitute Amendment to 2011 Senate Bill 45, Relating to Administration of Medication to Pupils

DATE: April 29, 2011

This memorandum summarizes the results of a meeting on Senate Bill 45 that was held on April 14, 2011 and was attended by Senator Olsen and his aide Sarah Archibald, Representative Kestell and his aide Chris Kulow, and Richard Sweet of the Legislative Council staff. It was agreed that a substitute amendment to the bill would be drafted with the following provisions:

OK
OK
1. **Administration of Non-Prescription Drugs:** Retain the bill's requirement that would permit authorized individuals to administer any drug which may lawfully be sold over the counter without a prescription to a pupil in compliance with the written instructions of the pupil's parent or guardian if the pupil's parent or guardian consents in writing. This would permit schools to keep on hand stocks of commonly administered non-prescription medications. However, if a parent provides non-prescription medications, the substitute amendment would require that these drugs be in the original manufacturer's package listing the ingredients and the recommended therapeutic dose in a legible format.

118.27(2)(a) 1/3.
OK
2. **Non-therapeutic doses of nonprescription medication:** Retain the restriction in current law prohibiting the administration of non-therapeutic doses of non-prescription drug products. *→ restricting (may administer under certain circumstances...)*

am. 115.001(11)
?
3. **Educational attainment requirement for school nurses:** Require school nurses to be registered nurses and have taken a course in public health nursing; repeal of the administrative rule requiring a bachelor's degree for school nurses. Request the Wisconsin Technical College System for a description of the public health nursing course to incorporate into the substitute amendment. *Sarah*

118.27(6) ?
4. **Training for school personnel who administer drugs to pupils:** Retain the current law's training requirement for school personnel who administer drug products (both prescription and non-prescription, only) for drugs that are inhaled, injected, or rectally administered.

where did this language come from?

Under the
bill (+) amendment

- 118.27(4)(a)3.
rebre current
law
5. **Civil liability exemption for trained personnel:** Retain the civil liability exemption for authorized individuals who administer a non-prescription drug product or prescription drug that is inhaled, injected, or rectally administered to a pupil, unless the act is done without having received the required training or the act or omission constitutes a high degree of negligence.

Question: Should the civil liability exemption be retained for persons authorized to administer other types of drugs that will not require training to administer?

- 118.27(1)(b)
118.27(1)(d)
6. **Definition of Drug Products:** Retain the current law definition of "drug product" as a specific drug or drugs in a specific dosage form and strength from a known source of manufacture; and the definition of "non-prescription drug product as any non-narcotic drug product which may be sold without a prescription order and which is prepackaged for use by consumers and labeled in accordance with the requirements of state and federal law."

What about definition of drug - keep current law

- s. 118.27(4)
7. **Written policies:** Retain the current law requirements on the development of written policies. Under current law, any school board, a county children with disabilities education board, a cooperative educational service agency, or governing body of a private school whose employees or volunteers may be authorized to administer nonprescription or prescription drug products to pupils under this section must adopt a written policy governing the administration of these drug products to pupils. In developing the policy, the school board, board, agency, or governing body must seek the assistance of one or more school nurses who are employees of the school board, board, agency, or governing body or are providing services or consultation under s. 121.02 (1) (g). The policy must include procedures for obtaining and filing in the school or other appropriate facility the required written instructions and consent, for the periodic review of such written instructions by a registered nurse licensed under s. 441.06 or in a party state, as defined in s. 441.50 (2) (j), for the storing of drug products and for recordkeeping, including documenting the administration of each dose, including errors.

Please contact me directly at the Legislative Council staff offices and let me know if this reflects the agreement reached at the meeting. I will send this memorandum to the drafter once I hear back from both of you regarding these instructions.

LR:jal

Kuczenski, Tracy

From: Rose, Laura
Sent: Monday, May 02, 2011 1:39 PM
To: Kuczenski, Tracy
Subject: SB 45/AB 62 substitute amendment

Attachments: 29olsen_kestell_lr.pdf



29olsen_kestell_lr.
pdf (49 KB)...

Hi Tracy,

I'm attaching a memo that outlines instructions for a Substitute Amendments to SB 45/AB 62. Please let me know if there is anything in this memo that is unclear.

With regard to the question on the item #5, the civil liability exemption for trained personnel, Rep. Kestell and Senator Olsen want it drafted to also retain the civil liability exemption for administering drugs that do not require training. The exemption shouldn't extend to untrained personnel who administer drugs for which training would be required: those drugs that are inhaled, injected, or rectally administered.

Let me know if you have any questions.

Thanks! Hope you are doing well.

Laura

Laura D. Rose, Deputy Director
Wisconsin Legislative Council
One East Main Street, Suite 401
PO Box 2536
Madison, WI 53701-2536
tel: 608.266.9791
fax: 608.266.3830
laura.rose@legis.wisconsin.gov

-----Original Message-----

From: Rose, Laura
Sent: Friday, April 29, 2011 3:11 PM
To: Kulow, Chris; Archibald, Sarah; Rep.Kestell; Sen.Olsen
Subject: FW: Olsen/Kestell memo

Hi Chris and Sarah, Rep. Kestell and Senator Olsen:

Attached is a memo summarizing the April 14th meeting agreement on a substitute amendment to SB 45. I had Dick look this over and he thinks it is accurate. However, I wanted to get your feedback before talking with the drafter at LRB.

Let me know if you have any revisions; once they are incorporated I can talk with the drafter.

Thanks,

Laura

Laura D. Rose, Deputy Director
Wisconsin Legislative Council



State of Wisconsin
2011 - 2012 LEGISLATURE

50098/P1



LRB-1536/2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
= ASSEMBLY SUBSTITUTE AMENDMENT

TKK: jld:md

Keep insert

LPS- TO 2011 ASSEMBLY BILL 62

identical
companion

to ~~ASSEMBLY SUBSTITUTE AMENDMENT~~ LRB 50097/P1

March 28, 2011 - Introduced by Representatives KESTELL, KOORYENGA, BROOKS, JACQUE, KAUFERT, LEMAHIEU, MARKLEIN, PETERSEN, SPANBAUER, STRACHOTA, THIESFELDT and ZIEGELBAUER, cosponsored by Senators OLSEN and HARSDORE. Referred to Committee on Education.

- 1 AN ACT *to repeal* 118.29 (1) (bg), 118.29 (1) (dm), 118.29 (2) (a) 1. b. and 118.29
2 (6); *to renumber and amend* 118.29 (2) (a) 1. a.; *to amend* 115.001 (11), 115.88
3 (1m) (am), 115.88 (1m) (b), 118.29 (1) (a), 118.29 (2) (a) 2., 118.29 (2) (a) 2r.,
4 118.29 (2) (a) 3., 118.29 (2) (b), 118.29 (4) and 118.29 (5); and *to repeal and*
5 *recreate* 118.29 (1) (b) of the statutes; **relating to:** administration of
6 medication to pupils.

Analysis by the Legislative Reference Bureau

2009 Wisconsin Act 160 (Act 160) made several changes to the law governing the administration of medication to pupils, all of which take effect on March 1, 2011. With one exception, this bill repeals the changes made in Act 160.

School nurses

Under Act 160, a school nurse is defined as a registered nurse who has a bachelor's degree in nursing or who is employed by, or under contract with, a school board, a cooperative educational service agency (CESA), a county children with disabilities education board (CCDEB), or an independent charter school as a nurse on the effective date of the bill. A school nurse need not be licensed by the Department of Public Instruction (DPI) to enjoy immunity from civil liability for referring a pupil to law enforcement authorities or to be employed for a special education program.

This bill directs DPI to license as a school nurse any registered nurse who is qualified to perform professional nursing services in a public school. A school district



State of Wisconsin

2011 - 2012 LEGISLATURE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION LRB-1553/1

TKK:WAAJd:md

SENATE SUBSTITUTE AMENDMENT

TO 2011 SENATE BILL 45

5/6/11

Wanted

5/10/11

March 22, 2011 - Introduced by Senators OLSEN and HARSDORF, cosponsored by Representatives KESTELL, KOYENGA, ZIEGELBAUER, THIESFELDT, PETERSEN, SPANBAUER, MARKLEIN, BROOKS, STRACHOTA, KAUFERT, LEMAHIEU and JACQUE. Referred to Committee on Health.

1 AN ACT *to repeal* 118.29 (1) (bg), 118.29 (1) (dm), 118.29 (2) (a) 1. b. and 118.29
2 (6); *to renumber and amend* 118.29 (2) (a) 1. a.; *to amend* 115.001 (11), 115.88
3 (1m) (am), 115.88 (1m) (b), 118.29 (1) (a), 118.29 (2) (a) 2., 118.29 (2) (a) 2r.,
4 118.29 (2) (a) 3., 118.29 (2) (b), 118.29 (4) and 118.29 (5); and *to repeal and*
5 *recreate* 118.29 (1) (b) of the statutes; **relating to:** administration of
6 medication to pupils.✓

Analysis by the Legislative Reference Bureau

2009 Wisconsin Act 160 (Act 160) made several changes to the law governing the administration of medication to pupils, all of which take effect on March 1, 2011.

With one exception, this bill repeals the changes made in Act 160.

School nurses

Under Act 160, a school nurse is defined as a registered nurse who has a bachelor's degree in nursing or who is employed by, or under contract with, a school board, a cooperative educational service agency (CESA), a county children with disabilities education board (CCDEB), or an independent charter school as a nurse on the effective date of the bill. A school nurse need not be licensed by the Department of Public Instruction (DPI) to enjoy immunity from civil liability for referring a pupil to law enforcement authorities or to be employed for a special education program.

This bill directs DPI to license as a school nurse any registered nurse who is qualified to perform professional nursing services in a public school. A school district

has successfully completed a course in public health or community health.

SENATE BILL 45

may employ or contract for the services of a registered nurse who is not licensed as a school nurse; only a licensed school nurse, however, is immune from civil liability for referring a pupil to law enforcement authorities, or for removing a pupil from school premises, for suspicion of possession, distribution, delivery, or consumption of an alcohol beverage or controlled substance, and only a licensed school nurse may be employed for a special education program.

Administration of drugs to pupils

Under Act 160, a school bus operator, and any school, CCDEB, or CESA employee or volunteer authorized by a school district, CCDEB, or CESA administrator, or by a school principal, may administer a nonprescription drug to a pupil in compliance with the written instructions of the pupil's parent or guardian if the pupil's parent or guardian consents and if the following conditions are satisfied: the nonprescription drug is supplied by the pupil's parent or guardian in the original sealed manufacturer's package and the package lists the ingredients and recommended therapeutic dose. A pupil may be administered a nonprescription drug in a dosage other than the recommended therapeutic dose only with the written approval of the pupil's practitioner.

This bill eliminates the requirements relating to the packaging and labeling of a nonprescription drug and the requirement that the nonprescription drug be supplied by the pupil's parent or guardian. The bill also eliminates the provision related to administration of a dosage other than the recommended therapeutic dose.

Under Act 160, the persons enumerated above may administer a prescription drug to a pupil if the pupil's parent or guardian consents and all of the following conditions are met: the prescription drug is supplied by the pupil's parent or guardian in the original pharmacy-labeled package, and the package specifies the pupil's name, the prescriber's name, the name of the drug, the dose, the effective date, and the directions. This bill eliminates the requirements relating to the packaging and labeling of the prescription drug and the requirement that the prescription drug be supplied by the pupil's parent or guardian.

Under Act 160, none of the persons enumerated above may administer prescription drugs to a pupil unless the person has received appropriate training that has been approved by DPI. This bill eliminates the training requirement.

Under Act 160, a person administering a drug to a pupil is not immune from civil liability if he or she has not received DPI-approved training, and the authorizer is not immune from civil liability if he or she authorizes a person who has not received DPI-approved training to administer a drug to a pupil.

This bill exempts any person enumerated above from civil liability for his or her acts or omissions in administering a prescription or nonprescription drug to a pupil unless he or she is a health care professional or the act or omission constitutes a high degree of negligence. Similarly, any person who authorizes a person enumerated above to administer a prescription or nonprescription drug to a pupil is immune from civil liability for the act of authorization unless it constitutes a high degree of negligence.

Prior to Act 160, each school board, CESA, CCDEB, and governing body of a private school whose employees or volunteers are authorized to administer drugs or

product

product

substitute amendment

product

However, if a nonprescription drug product is supplied by the parent or guardian, the nonprescription drug product must be in the original manufacturer's package.

substitute amendment

Insert analysis

SENATE BILL 45

prescription drugs to pupils was required to adopt a written policy governing the procedures for administering drugs to pupils, including certain record-keeping requirements. Act 160 made several modifications to the written policy requirements, including the addition of a requirement that the written policy require the documentation of the administration of each dose, including errors. This bill retains this additional requirement, but restores the remainder of the written policy language to pre-Act 160 law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill. *Sub: State Government*

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 115.001 (11) of the statutes is amended to read:

115.001 (11) SCHOOL NURSE. "School nurse" means a registered nurse licensed

under s. 441.06 ch. 441 or in a party state, as defined in s. 441.50 (2) (j), who ~~is also~~ *strike*

~~meets the qualifications for school nurses prescribed by the department by rule~~

submits evidence satisfactory to

certified by the department as being qualified to perform professional nursing

services in a public school.

*that he or she has successfully completed a course
in public health or community health*

SECTION 2. 115.88 (1m) (am) of the statutes is amended to read:

115.88 (1m) (am) Subject to par. (b), if the operator of a charter school

established under s. 118.40 (2r) operates a special education program and the state

superintendent is satisfied that the operator of the charter school is complying with

20 USC 1400 to 1491o, the state superintendent shall certify to the department of

administration in favor of the operator of the charter school a sum equal to the

amount that the operator of the charter school expended during the previous school

year for salaries of full-time or part-time licensed teachers, licensed coordinators of

special education, licensed school nurses, licensed school social workers, licensed

school psychologists, licensed school counselors, paraprofessionals, licensed

consulting teachers to work with any teacher of regular education programs who has

SENATE BILL 45**SECTION 2**

1 a child with a disability in a class and any other personnel, as determined by the state
2 superintendent, as costs eligible for reimbursement from the appropriation under s.
3 20.255 (2) (b). The state superintendent may audit costs under this paragraph and
4 adjust reimbursement to cover only actual, eligible costs.

5 **SECTION 3.** 115.88 (1m) (b) of the statutes is amended to read:

6 115.88 **(1m)** (b) The department shall promulgate rules establishing the
7 percentage of the salaries of licensed school nurses, licensed school social workers,
8 licensed school psychologists, and licensed school counselors that may be certified
9 under pars. (a) and (am) as costs eligible for reimbursement. For each category of
10 personnel, the department shall base the percentage on the average percentage of
11 work time that the category spends providing services to children with disabilities,
12 including conducting evaluations under s. 115.782.

13 **SECTION 4.** 118.29 (1) (a) of the statutes, as affected by 2009 Wisconsin Act 160,
14 is amended to read:

15 118.29 **(1)** (a) "Administer" means the direct application of a ~~nonprescription~~
16 drug ~~product~~ or prescription drug, whether by injection, ingestion or other means,
17 to the human body.

18 **SECTION 5.** 118.29 (1) (b) of the statutes, as affected by 2009 Wisconsin Act 160,
19 is repealed and recreated to read:

20 118.29 **(1)** (b) "Drug" has the meaning specified in s. 450.01 (10).

21 **SECTION 6.** 118.29 (1) (bg) of the statutes, as affected by 2009 Wisconsin Act 160,
22 is repealed.

23 **SECTION 7.** 118.29 (1) (dm) of the statutes, as affected by 2009 Wisconsin Act
24 160, is repealed.

SENATE BILL 45

1 Fix
component

2 SECTION 8. 118.29 (2) (a) 1. a. of the statutes, as affected by 2009 Wisconsin Act

3 160, is renumbered 118.29 (2) (a) 1. and amended to read:4 118.29 (2) (a) 1. Except as provided in subd. 1. b., may May administer any5 nonprescription drug product which may lawfully be sold over the counter without6 a prescription to a pupil in compliance with the written instructions of the pupil's7 parent or guardian if the pupil's parent or guardian consents in writing, the8 nonprescription drug product is supplied by the pupil's parent or guardian9 original manufacturer's package, and the package lists the ingredients and10 recommended therapeutic dose in a legible format must list

11 SECTION 9. 118.29 (2) (a) 1. b. of the statutes, as affected by 2009 Wisconsin Act

12 160, is repealed.

13 SECTION 10. 118.29 (2) (a) 2. of the statutes, as affected by 2009 Wisconsin Act

14 160, is amended to read:

15 118.29 (2) (a) 2. May administer a prescription drug to a pupil in compliance

16 with the written instructions of a practitioner if the pupil's parent or guardian

17 consents in writing; the prescription drug is supplied by the pupil's parent or18 guardian in the original pharmacy-labeled package; and the package specifies the19 name of the pupil, the name of the prescriber, the name of the prescription drug, the20 dose, the effective date, and the directions in a legible format.

21 SECTION 11. 118.29 (2) (a) 2r. of the statutes, as affected by 2009 Wisconsin Act

22 160, is amended to read:

23 118.29 (2) (a) 2r. Except for glucagon administered under subd. 2., may

24 administer glucagon to any pupil who the school bus driver, employee, or volunteer25 knows is diabetic and who appears to be experiencing a severe low blood sugarhypoglycemic event with altered consciousness if, as soon as practicable, the schoolScore
plain

If the

the nonprescription drug product shall be supplied in the plain

SENATE BILL 45

SECTION 11

1 bus operator, employee, or volunteer reports the event ~~by dialing the telephone~~
2 ~~number "911" or, in an area in which the telephone number "911" is not available, the~~
3 ~~telephone number for~~ to an emergency medical service provider. *Q*

4 **SECTION 12.** 118.29 (2) (a) 3. of the statutes, as affected by 2009 Wisconsin Act
5 160, is amended to read:

6 118.29 (2) (a) 3. Subject to sub. (4m), is immune from civil liability for his or
7 her acts or omissions in administering a ~~nonprescription drug product~~ or
8 prescription drug to a pupil under subd. 1., 2., 2m., or 2r. unless the act ~~is in violation~~
9 ~~of sub. (6)~~ [✓] or the act or omission constitutes a high degree of negligence. This
10 subdivision does not apply to health care professionals.

11 **SECTION 13.** 118.29 (2) (b) of the statutes, as affected by 2009 Wisconsin Act
12 160, is amended to read:

13 118.29 (2) (b) Subject to sub. (4m), any school district administrator, county
14 children with disabilities education board administrator, cooperative educational
15 service agency administrator, public, private, or tribal school principal, or private or
16 tribal school administrator who authorizes an employee or volunteer to administer
17 a ~~nonprescription drug product~~ or prescription drug to a pupil under par. (a) is
18 immune from civil liability for the act of authorization unless it constitutes a high
19 degree of negligence ~~or the administrator or principal authorizes a person who has~~
20 ~~not received the required training under sub. (6)~~ [✓] to administer a nonprescription
21 drug product or prescription drug to a pupil.

Q 22 **SECTION 14.** 118.29 (4) of the statutes, as affected by 2009 Wisconsin Act 160,
23 is amended to read:

24 118.29 (4) WRITTEN POLICIES. Any school board, county children with
25 disabilities education board, cooperative educational service agency or governing

SENATE BILL 45

1 body of a private school whose employees or volunteers may be authorized to
2 administer ~~nonprescription drug products~~ drugs or prescription drugs to pupils
3 under this section shall adopt a written policy governing the administration of
4 ~~nonprescription drug products~~ drugs and prescription drugs to pupils. In developing
5 the policy, the school board, board, agency or governing body shall seek the assistance
6 of one or more ~~school nurses~~ appropriate health care professionals who are
7 employees of the school board, board, agency or governing body or are providing
8 services or consultation under s. 121.02 (1) (g). The policy shall include procedures
9 for obtaining and filing in the school or other appropriate facility the written
10 instructions and consent required under sub. (2) (a), for the periodic review of such
11 written instructions ~~by a registered nurse licensed under s. 441.06 or in a party state,~~
12 ~~as defined in s. 441.50 (2) (j),~~ for the storing of ~~nonprescription drug products~~ drugs
13 and prescription drugs, ~~and~~ for record keeping, including documenting the
14 administration of each dose, including errors, and for the appropriate instruction of
15 persons who may be authorized to administer drugs or prescription drugs to pupils
16 under this section.

17 SECTION 15. 118.29 (5) of the statutes is amended to read:

18 118.29 (5) EXEMPTION. No employee except a health care professional may be
19 required to administer a ~~nonprescription drug product~~ or prescription drug to a pupil
20 under this section by any means other than ingestion.

21 SECTION 16. 118.29 (6) of the statutes, as affected by 2009 Wisconsin Act 160,
22 is repealed.

23

~~SECTION 17. Effective date.~~

SENATE BILL 45

SECTION 17

(1) This act takes effect on March 1, 2011, or on the day after publication,
whichever is later.

(END)

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

8 P1
LRBs0097/ins
TKK:.....

Insert analysis

NO
This substitute amendment requires the persons enumerated above to receive training before administering a prescription drug or nonprescription drug product that must be inhaled, injected, or rectally administered.

Inert 7-1 , as created by 2009 Wisconsin Act 160,

(intro.)

SECTION 1. 118.29 (6) of the statutes is renumbered 118.29 (6) (a) and amended

to read:

(intro.)

118.29 (6) (a) (intro.) Notwithstanding sub. (2) (a) 1. to 2r., and subject to par. (b), no school bus driver, employee, or volunteer may administer ^{↓ ↓} any of the following nonprescription drug product products or prescription drug under sub. (2) (a) 1. or 2., use an epinephrine auto-injector under sub. (2) (a) 2m., or administer glucagon under sub. (2) (a) 2r. ^{plain} (drugs) unless he or she has received training, approved by the department, in administering these nonprescription drug products and prescription drugs.

(b) This subsection does not apply to health care professionals.

History: 1983 a. 334; 1985 a. 146 s. 8; 1985 a. 218; 1987 a. 14, 399; 1989 a. 56, 102, 105; 1991 a. 103; 1997 a. 164; 1999 a. 56, 126; 2001 a. 16, 83; 2007 a. 130; 2009 a. 160, 302; s. 13.92 (2) (i).

SECTION 2. 118.29 (6) (a) 1., 2. and 3. of the statutes are created to read:

118.29 (6) (a) 1. A nonprescription drug product or prescription drug product that must be injected into a pupil.

2. A nonprescription drug product or prescription drug product that must be inhaled by a pupil.

3. A nonprescription drug product or prescription drug product that must be rectally administered to a pupil.

Kuczenski, Tracy

From: Kulow, Chris
Sent: Friday, May 20, 2011 7:54 AM
To: Kuczenski, Tracy
Subject: RE: Med Admin - Follow-Up to our conversation

Yes, our timeline for a hearing on this bill is looking like June 1.

From: Kuczenski, Tracy
Sent: Thursday, May 19, 2011 4:16 PM
To: Kulow, Chris
Subject: RE: Med Admin - Follow-Up to our conversation

Okay; so with this last bit of information I can proceed with an introducible draft, correct?

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
tracy.kuczenski@legis.wisconsin.gov
(608) 266-9867

From: Kulow, Chris
Sent: Thursday, May 19, 2011 4:10 PM
To: Kuczenski, Tracy
Subject: RE: Med Admin - Follow-Up to our conversation

Yes that is ok. Thanks!

From: Kuczenski, Tracy
Sent: Thursday, May 19, 2011 3:15 PM
To: Kulow, Chris
Subject: RE: Med Admin - Follow-Up to our conversation

Sure, something like this would work. Presumably DPI would then be able to adopt rules that would establish criteria for what constitutes a course that is "satisfactory to the department."

Is that okay?

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
tracy.kuczenski@legis.wisconsin.gov
(608) 266-9867

From: Kulow, Chris
Sent: Thursday, May 19, 2011 3:08 PM
To: Kuczenski, Tracy
Subject: FW: Med Admin - Follow-Up to our conversation

Tracy,

Does the below suggested language work in your opinion? If so, you can proceed with the redraft.

Thanks!

5/19/11
LRB50098/P1 and LRB50097/P1
Per Chris (Rep. Kestell):
1. Section 5 (p. 4 ln 15-20): restore
abstinence material except
"by the pupil's parent or guardian."
2. Remove treatment of
S. 118.29(2)(a)2r.

Christopher Kulow
Office of State Representative Steve Kestell
212 North - State Capitol; 266-8530
<http://kestell.assembly.wisconsin.gov>

From: Kammerud, Jennifer DPI [<mailto:Jennifer.Kammerud@dpi.wi.gov>]
Sent: Thursday, May 19, 2011 2:48 PM
To: Kulow, Chris
Subject: Med Admin - Follow-Up to our conversation

Chris,

Our lawyer read it the same way I did. What follows is suggested language that reflects the intent discussed.

(starting on line 2, page 3) "submits evidence satisfactory to the department that he or she has completed a course in public health or community health satisfactory to the department."

Jennifer

Jennifer Kammerud
Legislative Liaison
Department of Public Instruction
125 South Webster Street
Madison, WI 53707
Ph: (608) 266-7073
E-mail: jennifer.kammerud@dpi.wi.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0098/P1

TKK:jld&wlj:jf

stays → RMN12

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2011 ASSEMBLY BILL 62

5/20/11

Today

(companion to LRB10097/P1)

Reger

1 AN ACT *to renumber and amend* 118.29 (6); *to amend* 115.001 (11), 115.88 (1m)
2 (am), 115.88 (1m) (b), 118.29 (2) (a) 1. a., 118.29 (2) (a) 2. and 118.29 (2) (a) 2r.;
3 and *to create* 118.29 (6) (a) 1., 2. and 3. of the statutes; **relating to:**
4 administration of medication to pupils.

Analysis by the Legislative Reference Bureau

2009 Wisconsin Act 160 (Act 160) made several changes to the law governing the administration of medication to pupils, all of which took effect on March 1, 2011. This substitute amendment repeals some of the changes made in Act 160 and modifies others.

School nurses

Under Act 160, a school nurse is defined as a registered nurse who has a bachelor's degree in nursing or who is employed by, or under contract with, a school board, a cooperative educational service agency (CESA), a county children with disabilities education board (CCDEB), or an independent charter school as a nurse on the effective date of the substitute amendment. A school nurse need not be licensed by the Department of Public Instruction (DPI) to enjoy immunity from civil liability for referring a pupil to law enforcement authorities or to be employed for a special education program.

This substitute amendment directs DPI to license as a school nurse any registered nurse who has successfully completed a course in public health or community health. A school district may employ or contract for the services of a registered nurse who is not licensed as a school nurse; only a licensed school nurse, however, is immune from civil liability for referring a pupil to law enforcement authorities, or for removing a pupil from school premises, for suspicion of possession, distribution, delivery, or consumption of an alcohol beverage or controlled substance, and only a licensed school nurse may be employed for a special education program.

Administration of drugs to pupils

Under Act 160, a school bus operator, and any school, CCDEB, or CESA employee or volunteer authorized by a school district, CCDEB, or CESA administrator, or by a school principal, may administer a nonprescription drug product to a pupil in compliance with the written instructions of the pupil's parent or guardian if the pupil's parent or guardian consents and if the following conditions are satisfied: the nonprescription drug product is supplied by the pupil's parent or guardian in the original sealed manufacturer's package and the package lists the ingredients and recommended therapeutic dose.

This substitute amendment eliminates the requirement that a nonprescription drug product be supplied by the pupil's parent or guardian. However, if a nonprescription drug product is supplied by the parent or guardian, the nonprescription drug product must be in the original manufacturer's package.

Under Act 160, the persons enumerated above may administer a prescription drug to a pupil if the pupil's parent or guardian consents and all of the following conditions are met: the prescription drug is supplied by the pupil's parent or guardian in the original pharmacy-labeled package, and the package specifies the pupil's name, the prescriber's name, the name of the drug, the dose, the effective date, and the directions. This substitute amendment eliminates the requirements relating to the packaging and labeling of the prescription drug and the requirement that the prescription drug be supplied by the pupil's parent or guardian.

Under Act 160, none of the persons enumerated above may administer prescription drugs to a pupil unless the person has received appropriate training that has been approved by DPI. This substitute amendment requires the persons enumerated above to receive training before administering a prescription drug or nonprescription drug product that must be inhaled, injected, or rectally administered.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 115.001 (11) of the statutes is amended to read:

2 115.001 (11) SCHOOL NURSE. "School nurse" means a registered nurse licensed
3 under s. 441.06 ch. 441 or in a party state, as defined in s. 441.50 (2) (j), who also

1 ~~meets the qualifications for school nurses prescribed by the department by rule~~
2 ~~submits evidence satisfactory to the department that he or she has successfully~~
3 ~~completed a course in public health or community health.~~ ^{↑ determined to be}
_{satisfactory to the}
_{department}

4 **SECTION 2.** 115.88 (1m) (am) of the statutes is amended to read:

5 115.88 **(1m)** (am) Subject to par. (b), if the operator of a charter school
6 established under s. 118.40 (2r) operates a special education program and the state
7 superintendent is satisfied that the operator of the charter school is complying with
8 20 USC 1400 to 1491o, the state superintendent shall certify to the department of
9 administration in favor of the operator of the charter school a sum equal to the
10 amount that the operator of the charter school expended during the previous school
11 year for salaries of full-time or part-time licensed teachers, licensed coordinators of
12 special education, licensed school nurses, licensed school social workers, licensed
13 school psychologists, licensed school counselors, paraprofessionals, licensed
14 consulting teachers to work with any teacher of regular education programs who has
15 a child with a disability in a class and any other personnel, as determined by the state
16 superintendent, as costs eligible for reimbursement from the appropriation under s.
17 20.255 (2) (b). The state superintendent may audit costs under this paragraph and
18 adjust reimbursement to cover only actual, eligible costs.

19 **SECTION 3.** 115.88 (1m) (b) of the statutes is amended to read:

20 115.88 **(1m)** (b) The department shall promulgate rules establishing the
21 percentage of the salaries of licensed school nurses, licensed school social workers,
22 licensed school psychologists, and licensed school counselors that may be certified
23 under pars. (a) and (am) as costs eligible for reimbursement. For each category of
24 personnel, the department shall base the percentage on the average percentage of

1 work time that the category spends providing services to children with disabilities,
2 including conducting evaluations under s. 115.782.

3 **SECTION 4.** 118.29 (2) (a) 1. a. of the statutes, as affected by 2009 Wisconsin Act
4 160, is amended to read:

5 118.29 (2) (a) 1. a. Except as provided in subd. 1. b., may administer any
6 nonprescription drug product which may lawfully be sold over the counter without
7 a prescription to a pupil in compliance with the written instructions of the pupil's
8 parent or guardian if the pupil's parent or guardian consents in writing, If the
9 nonprescription drug product is supplied by the pupil's parent or guardian, the
10 nonprescription drug product shall be supplied in the original manufacturer's
11 package, and the package lists must list the ingredients and recommended
12 therapeutic dose in a legible format.

13 **SECTION 5.** 118.29 (2) (a) 2. of the statutes, as affected by 2009 Wisconsin Act
14 160, is amended to read:

15 118.29 (2) (a) 2. May administer a prescription drug to a pupil in compliance
16 with the written instructions of a practitioner if the pupil's parent or guardian
17 consents in writing; the prescription drug is supplied ^{plain} by the pupil's parent or
18 guardian in the original pharmacy-labeled package; and the package specifies the ^{plain}
19 name of the pupil, the name of the prescriber, the name of the prescription drug, the
20 dose, the effective date, and the directions in a legible format.

21 **SECTION 6.** 118.29 (2) (a) 2r. of the statutes, as affected by 2009 Wisconsin Act
22 160, is amended to read:

23 118.29 (2) (a) 2r. Except for glucagon administered under subd. 2., may
24 administer glucagon to any pupil who the school bus driver, employee, or volunteer
25 knows is diabetic and who appears to be experiencing a severe low blood sugar

1 hypoglycemic event ~~with altered consciousness~~ if, as soon as practicable, the school
2 bus operator, employee, or volunteer reports the event ~~by dialing the telephone~~
3 ~~number "911" or, in an area in which the telephone number "911" is not available, the~~
4 ~~telephone number for~~ to an emergency medical service provider.

5 SECTION 7. 118.29 (6) of the statutes, as created by 2009 Wisconsin Act 160, is
6 renumbered 118.29 (6) (a) (intro.) and amended to read:

7 118.29 (6) (a) (intro.) Notwithstanding sub. (2) (a) 1. to 2r., and subject to par.
8 (b), no school bus driver, employee, or volunteer may administer ~~a~~ any of the
9 following nonprescription drug ~~product~~ products or prescription drug ~~under sub. (2)~~
10 ~~(a) 1. or 2., use an epinephrine auto-injector under sub. (2) (a) 2m., or administer~~
11 ~~glucagon under sub. (2) (a) 2r.~~ drugs unless he or she has received training, approved
12 by the department, in administering these nonprescription drug products and
13 prescription drugs.:

14 (b) This subsection does not apply to health care professionals.

15 SECTION 8. 118.29 (6) (a) 1., 2. and 3. of the statutes are created to read:

16 118.29 (6) (a) 1. A nonprescription drug product or prescription drug product
17 that must be injected into a pupil.

18 2. A nonprescription drug product or prescription drug product that must be
19 inhaled by a pupil.

20 3. A nonprescription drug product or prescription drug product that must be
21 rectally administered to a pupil.

22 (END)

Kuczenski, Tracy

From: Kuczenski, Tracy
Sent: Tuesday, May 31, 2011 11:36 AM
To: Kulow, Chris
Subject: RE: FW: School Nursing

Hi Chris –

You are in a meeting, so I am sending this email rather than speaking with you...

The information in the analysis that indicates that “only a licensed school nurse, however, is immune from civil liability for referring a pupil to law enforcement authorities, or for removing a pupil from school premises, for suspicion of possession, distribution, delivery, or consumption of an alcohol beverage or controlled substances” is inaccurate. Immunity from civil liability for these actions is found under current law s. 118.257, and this provision of the statutes is not amended by 11s0098/1 (nor was it amended in the underlying AB 62). Section 118.257 (1) (c), defines “pupil services professional” to include a school nurse (not a licensed school nurse).

I believe another statement in the analysis is not entirely clear: the sentence that begins “This Substitute Amendment directs DPI to license as a school nurse...” The Substitute Amendment changes the definition of school nurse, found at s. 115.001 (11). It does not establish a substantive requirement for licensure (note that Section 115.28 (7m) governs “certification of school nurses”, not licensure...). That is, the definition for school nurse at s. 115.001 (11), as amended by ASA 1 to AB62, establishes the basis of who qualifies to be a “school nurse” wherever that term is used in the statutes.

Because the sentence governing licensed school nurses is confusing, I would like to change the sentence in the analysis to read “This Substitute Amendment changes the definition of school nurse to mean [text of definition]...”.

I apologize for these errors. I can correct them by preparing a “corrected copy” of the bill indicating that the analysis has been corrected. Does that sound acceptable to Rep. Kestell? I would still need to prepare a simple amendment to ASA 1 to remove sections 2 and 3 of the bill.

Let me know whether you would like me to prepare a corrected copy.

Thanks,
Tracy

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
tracy.kuczenski@legis.wisconsin.gov
(608) 266-9867

From: Kulow, Chris
Sent: Tuesday, May 31, 2011 10:08 AM
To: Kuczenski, Tracy
Subject: FW: FW: School Nursing

Tracy,

This is the email from a school nurse who raised this issue.

5/31/2011



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0098/1
TKK:jld&wlj:ph / nwn

CORRECTED COPY

↑
LPS: I added this.

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 62

5/31/11 Today

May 23, 2011 - Offered by Representative KESTELL.

- 1 AN ACT *to renumber and amend* 118.29 (6); *to amend* 115.001 (11), 115.88 (1m)
2 (am), 115.88 (1m) (b), 118.29 (2) (a) 1. a. and 118.29 (2) (a) 2.; and *to create*
3 118.29 (6) (a) 1., 2. and 3. of the statutes; **relating to:** administration of
4 medication to pupils.

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This substitute amendment directs DPI to license as a school nurse any registered nurse who has successfully completed a course in public health or

meets the qualifications for school nurses established by the Department of Public Instruction (DPI) by rule

changes the definition for

to mean a

community health. A school district may employ or contract for the services of a registered nurse who is not licensed as a school nurse; only a licensed school nurse, however, is immune from civil liability for referring a pupil to law enforcement authorities, or for removing a pupil from school premises, for suspicion of possession, distribution, delivery, or consumption of an alcohol beverage or controlled substance, and only a licensed school nurse may be employed for a special education program.

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Under Act 160, the persons enumerated above may administer a prescription drug to a pupil if the pupil's parent or guardian consents and all of the following conditions are met: the prescription drug is supplied by the pupil's parent or guardian in the original pharmacy-labeled package, and the package specifies the pupil's name, the prescriber's name, the name of the drug, the dose, the effective date, and the directions. This substitute amendment eliminates the requirement that the prescription drug be supplied by the pupil's parent or guardian.

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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 115.001 (11) of the statutes is amended to read:

115.001 (11) SCHOOL NURSE. "School nurse" means a registered nurse licensed under s. 441.06 ch. 441 or in a party state, as defined in s. 441.50 (2) (j), who also meets the qualifications for school nurses prescribed by the department by rule submits evidence satisfactory to the department that he or she has successfully

cooperative
educational
service
agency
(CESA)

county
children
with
disabilities
education
board
(CCDEB)